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09/596,864	06/19/2000	Ashutosh Dutta	AP32551 070050.1303	7062

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EXAMINER

WINDER, PATRICE L

ART UNIT	PAPER NUMBER
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2145

DATE MAILED: 07/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/596,864

Applicant(s)

DUTTA ET AL.

Examiner

Patrice Winder

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-22,24-26 and 30-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22,24-26,30,36 and 38-41 is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7-21,31-35 and 37 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 17-21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification as originally filed by Applicant's does not provide antecedent basis for the phrase "control feedback". More importantly, the specification does not disclose a "multicast communication which includes a control feedback". Focusing particularly on page 31, the break information in question is associated with a multicast communication but not included in the communication.

3. Claim 37 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. "Feedback" signals that incorporate the number of receivers receiving a multicast are not included in Applicant's disclosure.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 3-5, 7, 9-10, 32, 34 and 37 are rejected under 35 U.S.C. 102(e) as being anticipated by Donahue et al., USPN 6,266,339 B1 (hereafter referred to as Donahue).

6. Regarding claim 1, Donahue taught a method for providing a broadcast of content to one or more receivers via a communication network (column 5, lines 8-24), comprising:

a) receiving the broadcast on at least one global multicast channel (column 7, lines 59-62);

b) associating at least one local multicast channel with the at least one global multicast channel (column 7, lines 62-65);

receiving a request from the receiver to receive the broadcast (column 8, lines 1-5);

c) connecting the receiver to the at least one local multicast channel (column 8, lines 1-5); and

d) routing the broadcast from the at least one global multicast channel to the at least one local multicast channel to provide the broadcast to the receiver (column 7, lines 62-67; column 8, lines 1-5);

wherein the at least one local multicast channel comprises an IP address (column 10, lines 39-46).

7. Regarding dependent claim 3, Donahue taught further comprising the step of:

f) inserting the broadcast into the at least one global multicast channel (column 7, lines 55-62); and

g) transmitting the broadcast at the at least one global multicast channel from a global server to a local server (column 7, lines 55-67).

8. Regarding dependent claim 4, Donahue taught the at least one global multicast channel is a plurality of global multicast channels (column 8, lines 48-52), and

the at least one local multicast channel is a plurality of local multicast channels (column 10, lines 7-20),

wherein the broadcast is inserted into a first global channel of the global multicast channels (column 11, lines 53-63), wherein the first global channel is associated with a first local channel of the local multicast channels, and wherein the receiver receives the broadcast from the first global channel on the first local channel (column 12, lines 48-62).

9. Regarding dependent claim 5, Donahue taught the broadcast is inserted into the first global channel by the global server, and wherein the global multicast channels are received by the local server (column 11, lines 53-63; column 12, lines 48-62).

10. Regarding dependent claim 7, Donahue taught the at least one global multicast channel is a plurality of global multicast channels (column 8, lines 48-52), and the at least one local multicast channel is a plurality of local multicast channels (column 10, lines 7-20), wherein the broadcast is inserted into a particular global channel by a global broadcasting device, and wherein the broadcast from the global multicast channels are received by a local broadcasting device (column 11, lines 53-63).

11. Regarding dependent claim 9, Donahue taught further comprising the step of:
o) at a predetermined time and using a multicast communication, determining a number of receivers, which are receiving the broadcast (column 14, lines 48-58).

12. Regarding dependent claim 10, Donahue taught the receiver includes an Internet Protocol (IP) interface which enables the receiver to receive the broadcast via an IP type multicast communication (column 8, lines 12-30).

13. The language of claims 32, 34 and 37 is substantially the same as previously rejected claims 1 and 10. Therefore, claims 32, 34 and 37 are rejected on the same rationale as previously rejected claim 1 and 10, above.

14. Claims 17-18, 31 and 35 are rejected under 35 U.S.C. 102(e) as being anticipated by Allen et al., USPN 5,892,535 (hereafter referred to as Allen).

15. Regarding claim 17, Allen taught a method for providing a respective predefined content to one or more receivers during a real-time broadcast of normal content (abstract), comprising the steps of:

receiving the real-time broadcast of normal content from a remote device via a multicast communication (column 5, lines 34-56, column 51, lines 56-62) which includes

a control feedback of the real-time broadcast, the control feedback of the real-time broadcast (column 17, lines 58-61) including information indicative of a respective time and a duration of at least one break in the broadcast of the normal content (column 32, lines 22-33);

inserting the respective predefined content received from a local server into the real-time broadcast during the at least one break in the normal content (column 32, lines 33-39); and

providing the real-time broadcast to the receiver after the respective predefined content have been inserted into the at least one break in the normal content of the real-time broadcast (column 33, lines 34-53, column 33, line 65 - column 34, line 17).

16. Regarding dependent claim 18, Allen taught the respective predefined content includes at least one of an advertisement, a station break announcement, a promotion and other pre-recorded content for global broadcast (column 30, lines 38-40).

17. The language of claim 31 is substantially the same as previously rejected claim 17. Therefore, claim 31 is rejected on the same rationale as previously rejected claim 17, above.

18. Regarding claim 35, Allen taught software arrangement configured to facilitate a respective predefined content to one or more receivers during a real-time broadcast of normal content, wherein, in operation, the software arrangement configures a processor to performs the steps (abstract) comprising of:

receiving the real-time broadcast of normal content from a remote device via a multicast communication (column 5, lines 34-56, column 51, lines 56-62), the real-time

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broadcast including information indicative of a respective time and a duration of at least one break in the broadcast of the normal content (column 32, lines 22-33);

inserting the respective predefined content received from a local server into the real-time broadcast during the at least one break in the normal content (column 32, lines 33-39);

providing the real-time broadcast to the receiver after the respective predefined content have been inserted into the at least one break in the normal content of the real-time broadcast (column 33, lines 34-53, column 33, line 65 - column 34, line 17).

Claim Rejections - 35 USC § 103

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

20. Claims 8, 13-16 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Donahue in view of Allen.

21. Regarding dependent claim 8, Donahue does not specifically teach inserting a local broadcast into particular channels of the local broadcast. However, Allen taught further comprising the steps of:

m) inserting a local broadcast into a particular channel of the local multicast channels, the local broadcast being different from a prior broadcast transmitted to the particular local channel (column 16, lines 45-60); and

n) if the receiver issues a request to receive the local broadcast, establishing a communication link for the receiver to the particular channel to receive the local broadcast (column 16, lines 30-37). It would have been obvious to one of ordinary skill in the art at the time the invention was made that incorporating Allen's steps for inserting local broadcast information in Donahue's system for providing localized access to broadcast was suggested by Donahue on column 5, lines 43-47. The motivation would have been to specifically provide a mechanism for interspersing local programming to the broadcast.

22. Regarding dependent claim 13, Donahue does not specifically teach the details of inserting breaks. However, Allen taught normal content of the broadcast has at least one break of respective predetermined duration (column 17, lines 38-46), and further comprising the steps of:

s) inserting respective predefined content data into the at least one break in the normal content of the broadcast (column 17, lines 46-51); and

t) providing the broadcast to the receiver after respective predefined content data is inserted into the at least one break of the normal content of the broadcast (column 17, lines 52-61). It would have been obvious to one of ordinary skill in the art at the time the invention was made that incorporating Allen's breaks in Donahue's system for multicasting data would have improved system effectiveness. The motivation would have been to provide targeted programming such that distribution of video programming is matched to the needs of a specific audience.

23. Regarding dependent claim 14, Allen taught the predefined content includes at least one of an advertisement, a station break announcement, a promotion and other pre-recorded content (column 17, lines 52-61).

24. Regarding dependent claim 15, Donahue does not specifically teach details of inserting breaks. However, Allen taught the local broadcast has at least one break at a respective time and of a respective predetermined duration (column 17, lines 38-46), and further comprising the steps of:

u) inserting respective predefined content into the local broadcast during at least one break in the normal content of the local broadcast (column 17, lines 46-51); and

t) providing the local broadcast to the receiver after the respective predefined content is inserted into the at least one break of the normal content of the local broadcast (column 17, lines 52-61). For motivation for combination see claim 13, above.

25. Regarding dependent claim 16, Allen taught the predefined content includes at least one of an advertisement, a station break announcement, a promotion and other pre-recorded content (column 17, lines 52-61).

26. Regarding dependent claim 33, Allen taught a start of the at least one break triggers the inserting step (column 33, lines 3-19).

27. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Donahue in view of Zhang et al., USPN 6,741,575 B1 (hereafter referred to as Zhang).

28. Regarding dependent claim 11, Donahue does not specifically teach a wireless receiver. However, Zhang taught the receiver is wireless and receives the broadcast in a first subnet using a multicast communication (column 6, lines 12-21), and further comprising the step of:

p) receiving, from the receiver, a request to receive the broadcast in a second subnet so as to move the real-time broadcast from the first subnet to the second subnet (column 9, lines 34-43); and

q) after receiving the request from the receiver, providing the broadcast to the wireless receiver in the second subnet using the multicast communication (column 10, lines 6-21, column 12, lines 19-29). It would have been obvious to one of ordinary skill in the art at the time the invention was made that incorporating Zhang's wireless receiver in Donahue's system for providing localized multicast access to broadcast

information would have improved system flexibility. The motivation would have been to integrate mobile clients in the system for providing localized multicast access.

29. Regarding dependent claim 12, Zhang taught further comprising the step of:

r) stopping a transmission of the broadcast in the first subnet after receiving the request from the receiver (column 11, lines 50-53, column 12, lines 34-35).

30. Claims 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen in view of Donahue.

31. Regarding dependent claim 19, Allen does not specifically teach mapping between a global multicast channel and a local multicast channel. However, Donahue taught the real-time broadcast is received on at least one global multicast channel (column 7, lines 59-62), and further comprising the steps of:

associating at least one location multicast channel with the at least one global multicast channel (column 7, lines 62-65); and

establishing a network link between the receiver and the at least one local multicast channel, and wherein the real-time broadcast is provided to the receiver by routing the real-time broadcast from the at least one global multicast channel to the at least one local multicast channel (column 7, lines 58-67; column 8, lines 1-5). It would have been obvious to one of ordinary skill in the art at the time the invention was made that incorporating Donahue's system for providing localized multicast access to broadcast information would have improved system efficiency. The motivation would have been to prevent congestion associated with multicasting in an Internet Protocol network.

32. Regarding dependent claim 21, Donahue taught the receiver includes an Internet Protocol (IP) interface which enables the receiver to receive the real-time broadcast via an IP-type multicast communication (column 8, lines 12-30).

33. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Allen in view of Zhang.

34. Regarding dependent claim 20, Allen does not specifically teach a wireless receiver. However, Zhang taught the receiver is wireless and receives the real-time broadcast in a first subnet using a multicast communication (column 6, lines 10-21), and further comprising the steps of:

receiving, from the receiver a request to receive the real-time broadcast in a second subnet so as to move the real-time broadcast from the first subnet to the second subnet (column 9, lines 34-43); and

after receiving, the request from the receiver, providing the real-time broadcast to the wireless receiver in the second subnet using the multicast communication (column 10, lines 6-21, column 12, lines 19-29). It would have been obvious to one of ordinary skill in the art at the time the invention was made that incorporating Zhang's mapping a global multicast channel to a local multicast channel would have provided cost-effective integration by utilizing existing networks for multicasting. The motivation would have utilized the advantages of integration of Allen's hierarchal distribution system in a digital network for mobile receivers.

Response to Arguments

35. Applicant's arguments with respect to claims 1, 3-16 has been considered but is moot in view of the new ground(s) of rejection.

36. Applicant argues – "In other words, the present invention includes information in the control feedback of the broadcast including when a break is forthcoming and the duration of the forthcoming break. Allen does not include information in the control feedback of the broadcast indicative of a respective time and duration of at least one break in the broadcast. "

- a. Applicant's disclosure does not support control feedback in broadcast (or in the multicast communication), as claimed. Allen taught as Applicant admits "cue tones" which are indicative of the start of break and duration of a break.

Allowable Subject Matter

37. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

38. Claims 22, 24-26, 30, 36, 38-41 are allowed.

39. The following is a statement of reasons for the indication of allowable subject matter: as per claim 6, the prior art of record fails to teach or suggest if the second global channel is not available to the local server, obtaining access for the local server to the second global channel.

40. The following is an examiner's statement of reasons for allowance:

Claims 22, 24-26, 30, 36, 38-41 are allowable over the prior art of record. The prior art fails to teach or suggest receiving, from the wireless receiver prior to leaving the first subnet, a request to receive the real-time broadcast in a second subnet, wherein the second subnet was not receiving the real-time broadcast prior to the request, so as to move the real-time broadcast from the first subnet to the second subnet as argued by applicant on page 19, second paragraph of the response filed on May 2, 2006.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

41. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

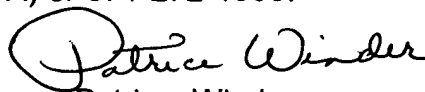
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

42. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrice Winder whose telephone number is 571-272-3935. The examiner can normally be reached on Monday-Friday, 10:30 am-7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Patrice Winder
Primary Examiner
Art Unit 2145

July 24, 2006